

53348

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 1 and 7

[OST Docket No. 1; Amdt. 1-228; Docket No. 43466; Amdt. 7-1]

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This delegation transfers Departmental responsibility for functions related to the Freedom of Information Act from the Office of Public Information, Office of the Assistant Secretary for Public Affairs to the Office of the General Counsel. It also makes technical corrections to 49 CFR Part 7 to reflect the change in delegations.

EFFECTIVE DATE: February 27, 1989.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, C-50, (202) 366-0307, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Departmental responsibility for ensuring uniform implementation of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and responding to requests for records of the Office of the Secretary, including the Office of the Inspector General, currently is exercised by the Office of the Assistant Secretary of Public Affairs under authority delegated by the Secretary to that office (49 CFR 1.63 (a)). The Office of the General Counsel currently has the responsibility for reviewing and taking final action on applications for reconsideration of initial decisions not to disclose unclassified records of the Office of the Secretary under FOIA (49 CFR 1.57(m)). The General Counsel, or his or her designee, also reviews any final determination by the head of an operating element within the

Department not to disclose a record (or a denial of a request for a fee waiver or reduction) under 49 CFR Part 7 (53 FR 30285, August 11, 1988). Appendix A to Part 7 also sets out, among other things, where documents may be inspected (paragraph 2), where requests for records should be submitted (paragraph 4), and the official that has authority to make determinations on requests (paragraph 5).

By this delegation, the Associate General Counsel, or his or her designee, will now be responsible for the functions currently exercised by the Office of the Assistant Secretary for Public Affairs. As a result of this change, all FOIA requests will be handled within the Office of the General Counsel. The requests should be submitted to the Associate General Counsel. In the event the position of Associate General Counsel is vacant, and no designation by the Associate General Counsel has been made, the General Counsel shall designate another person to make the determination on requests.

The review functions will continue to be exercised by the General Counsel, or his or her designee. This process will maintain a two-tiered approach to FOIA issues. The review procedures set forth in 49 CFR Part 7 generally remain intact. However, a technical correction to Part 7 is needed, Section 7.1(d) will be changed to reflect the reorganization of function. Appendix A to Part 7 will be amended as follows:

-Paragraph 2 explains, among other things, that & cum inspection facilities are maintained by the Office of the Assistant Secretary for Public Affairs. This facility remains unchanged, but the office designation will be changed to Office of the General Counsel.

-Paragraph 4 will be changed to the Associate General Counsel.

-Paragraph 5 will be changed to the Associate General Counsel, or his or her designee.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

List of Subjects

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 7

**Freedom of Information,
Administrative practice and procedures,
Records.**

In consideration of the foregoing,
Parts 1 and 7 of Title 49, Code of Federal
Regulations, are amended to read as
follows:

PART 1—[AMENDED]

1. The authority citation for Part 1
continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.57b is added to read as
follows:

**§ 1.57b Delegations to the Associate
General Counsel.**

Administer 5 U.S.C. 552 and 49 CFR
Part 7 in connection with the records of
the Office of the Secretary (including the
Office of the Inspector General) and
issue procedures to ensure uniform
Departmental implementation of
statutes and regulations regarding public
access to records.

3. Section 1.63 is amended by
removing and reserving paragraph (a) to
read as follows:

**§ 1.63 Delegations to Assistant Secretary
for Public Affairs.**

(a) [Reserved]

PART 7—[AMENDED]

4. The authority citation for Part 7
continues to read as follows:

Authority: 5 U.S.C. 552; 49 U.S.C. 301; 49
U.S.C. 322.

§ 7.1 [Amended]

5. In § 7.1(d), remove the words
"Assistant Secretary for Public Affairs"
and add in their place the words "Office
of the General Counsel".

Appendix A to Part 7—[Amended]

6. In Appendix A to Part 7, paragraph
2, remove the words "Assistant
Secretary for Public Affairs" and add in
their place the words "Office of the
General Counsel".

7. In Appendix A to Part 7, paragraphs
4 and 5, remove the words "Assistant
Secretary for Public Affairs" and add in
their place the words "Associate
General Counsel".

Issued on: February 27, 1989.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 89-5527 Filed 3-8-89; 8:45 am]

BILLING CODE 4910-02-M

**Research and Special Programs
Administration**

49 CFR Part 173

**Hazardous Materials; Requirements for
Shipments and Packagings; Limited
Quantities of Flammable Liquids**

CFR Correction

In Title 49 of the Code of Federal
Regulations, Parts 100 to 177, revised as
of October 2, 1988, in § 173.115(c),
appearing on page 471 a portion of the
text was omitted.

§ 173.115 [Corrected]

The last line of § 173.115(c) should
read "rated capacity of one gallon or
less are not subject to the requirements
of this subchapter."

BILLING CODE 1505-01-M

Office of the Secretary

[49 CFR Parts 1 and 7]

(OST Docket No. 1; Amdt. 1-228; Docket No. 43466; Amdt. 7- 1)

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: Department of Transportation (DOT), Office of the Secretary

ACTION: Final Rule

SUMMARY: This delegation transfers Departmental responsibility for functions related to the Freedom of Information Act from the Office of Public Information, Office of the Assistant Secretary for Public Affairs to the Office of the General Counsel. It also makes technical corrections to 49 CFR Part 7 to reflect the change in delegations.

EFFECTIVE DATE: February 27, 1989

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, C-50, (202) 366-9307, Department of Transportation, 400 Seventh Street, SW, Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: The Departmental responsibility for ensuring uniform implementation of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and responding to requests for records of

the Office of the Secretary, including the Office of the Inspector General, currently is exercised by the Office of the Assistant Secretary of Public Affairs under authority delegated by the Secretary to that office (49 CFR 1.63 (a)). The Office of the General Counsel currently has the responsibility for reviewing and taking final action on applications for reconsideration of initial decisions not to disclose unclassified records of the Office of the Secretary under FOIA (49 CFR 1.57(m)). The General Counsel, or his or her designee, also reviews any final determination by the head of an operating element within the Department not to disclose a record (or a denial of a request for a fee waiver or reduction) under 49 CFR Part 7 (53 FR 30265, August 11, 1988). Appendix A to Part 7 also sets out, among other things, where documents may be inspected (paragraph 2), where requests for records should be submitted (paragraph 4), and the official that has authority to make determinations on requests (paragraph 5).

By this delegation, the Associate General Counsel, or his or her designee, will now be responsible for the functions currently exercised by the Office of the Assistant Secretary for Public Affairs. As a result of this change, all FOIA requests will be handled within the Office of the General Counsel. The requests should be submitted to the Associate General Counsel. In the event the position of Associate General Counsel is vacant, and no designation by the Associate General Counsel has been made, the General Counsel shall designate another person to make the determination on requests.

The review functions will continue to be exercised by the General Counsel, or his or her designee. This process will maintain a two-tiered approach to FOIA issues. The review procedures set forth in 49 CFR Part 7 generally remain intact. However, a technical correction to Part 7 is needed. Section 7.1(d) will be changed to reflect the reorganization of function. Appendix A to Part 7 will be amended as follows:

- Paragraph 2 explains, among other things, that document inspection facilities are maintained by the Office of the Assistant Secretary for Public Affairs. This facility remains unchanged, but the office designation will be changed to Office of the General Counsel.
- Paragraph 4 will be changed to the Associate General Counsel.
- Paragraph 5 will be changed to the Associate General Counsel, or his or her designee.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

LIST OF SUBJECTS

49 CFR Part 1

Authority delegations (Government agencies)

Organization and functions (Government agencies)

49 CFR Part 7

Freedom of Information, Administrative practice and
procedures, Records

In consideration of the foregoing, Parts 1 and 7 of Title 49,
Code of Federal Regulations, are amended to read as follows:

PART 1 -- (AMENDED)

1. The authority citation for Part 1 continues to read as
follows:

AUTHORITY: 49 U.S.C. 322.

2. Section 1.57b is added to read as follows:

~~§1.57b Delegations to the Associate General Counsel.~~

(a) Administer 5 U.S.C. 552 and 49 CFR Part 7 in connection with
the records of the Office of the Secretary (including the Office
of the Inspector General) and issue procedures to ensure uniform
Departmental implementation of statutes and regulations regarding
public access to records.

3. Section 1.63 is amended by removing and reserving
paragraph (a) to read as follows:

~~§ 1.63 Delegations to Assistant Secretary for Public Affairs.~~

* * * * *

(a) Reserved.

PART 7 -- (AMENDED)

4. The authority citation for Part 7 continues to read as follows:

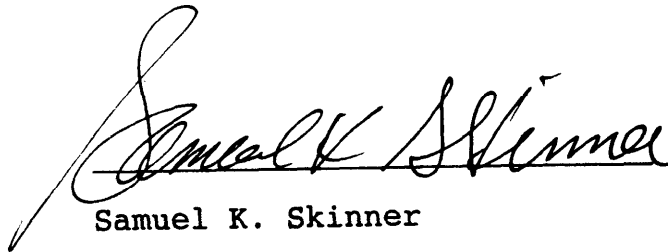
AUTHORITY: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322.

5. In Section **7.1(d)**, remove the words "Assistant Secretary for Public Affairs" and add in their place, the words "Office of the General Counsel".

6. In Appendix A of Part 7, paragraph 2, remove the words "Assistant Secretary for Public Affairs" and add in their place, the words "Office of the General Counsel".

7. In Appendix A of Part 7, paragraphs 4 and 5, remove the words "Assistant Secretary for Public Affairs" and add in their place, the words "Associate General Counsel".

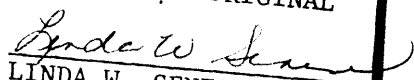
Issued on: February 27, 1989



Samuel K. Skinner

Secretary of Transportation

CERTIFIED TO BE A TRUE
COPY OF THE ORIGINAL



LINDA W. SENESE
Certifying Officer